Quincy.txt DEPARTMENT OF WATER RESOURCES -000-IN RE THE MATTER OF: **MONTEREY AMENDMENT PUBLIC HEARING** NOVEMBER 29, 2007 3:00 p.m. COUNTY BUILDING 520 MAIN STREET SUPERVISORS BOARDROOM #308 QUINCY, CALIFORNIA Page 1

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RPR	REPORTED BY: AMY JO TREVINO, CCR #825, CSR #5296,
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1	APPEARANCES
2	DEPARTMENT OF WATER RESOURCES:
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5 6	MARAIS YEE
7	
8	
9	SPEAKERS: JAMES BROBEK
10	MICHAEL JACKSON BARBARA HENNIGAN
11	ALLISON DVORAK STEVEE DUBER
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□ 0003
1 MR. ANDERSON: Okay, the first speaker we have is James
2 Brobek.
3 MR. BROBEK: Good afternoon and thanks so much for
4 traveling up here to this beautiful watershed that supplies
5 much of the water for the State Water Project. My name is
Page 3

- 6 James Brobek, I'm a water policy analyst for Butte
- 7 Environmental Council, represents over eight hundred members
- 8 located in the Sacramento River watershed. I'm also on the
- 9 Water Advisory Committee and the Butte County Department of
- 10 Water Resource Conservation, though I'm not here officially
- 11 representing them. I am here representing Butte Environmental
- 12 Council today.
- The Monterey Amendment to the EIR fails to analyze or
- 14 disclose impacts to the environmental economy of Butte County
- 15 that are likely to occur as a result of the increased water
- 16 exports that are enabled by the Monterey Amendment. The
- 17 environmental review for the Sacramento Valley Integrative
- 18 Regional Water Management Plan and the Sacramento Valley Water
- 19 Management Agreement, the phase eight settlements has not
- 20 occurred and yet these two water management plans are key to

- 21 the continued operation in the Deltas and operation of the
- 22 Monterey Agreement.
- 23 Unfortunately, the draft fails to identify the
- 24 relationship between these Northern California water management
- 25 schemes and the Delta exports. This analysis should be done in

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- 1 the final environmental impact report. In fact by our analysis
- 2 the environmental review for these two plans in Sacramento
 - 3 valley should be done prior to the Monterey Amendment.
 - 4 We are concerned that growth inducing impacts
 - 5 associated with the increased water supply have been
- 6 inadequately analyzed. And this analysis should be done in the
 - 7 final environmental impact report.
- 8 The settlement agreements between agricultural and
- 9 urban contractors that remove water shortage provisions create

- 10 incentives for contractors to replace annual crops with
- 11 permanent crops. This will reduce flexibility and increase
- 12 demands to develop drought water supplies, such as conjunctive
- 13 use of the Sacramento valley ground water as well as deeper
- 14 draining of the Oroville Reservoir.
- The Butte County is the host of the Oroville
- 16 Reservoir. When this reservoir was built in Butte County,
- 17 Butte County was promised that this would be a great boom to
- 18 the economy of Butte County. However, a recent analysis done
- 19 by the Department of Water Resources as well as Butte County
- 20 indicate that it costs Butte County at least \$10 million and
- 21 much more likely \$20 million to host this reservoir because of
- 22 the lack of recreational opportunities and the increase cost of
- 23 law enforcement and infrastructure that is required by Butte
- 24 County to maintain access to the reservoir.
- 25 More aggressive operation of the Oroville Reservoir

- 1 will result in increased financial hardships to Butte County.
- 2 For those people who did come up Highway 70 and went over the
- 3 bridge over the Oroville Reservoir, I'm sure that you notice
- 4 that it was difficult to even see the water in the reservoir as
- 5 the reservoir returns to its more river like structure. So we
- 6 hope that the final will actually analyze some of the impacts
- 7 to the economy of Butte County associated with the more
- 8 aggressive operation of the Oroville Reservoir that will be
 - 9 necessary during drought conditions where the decrease
- 10 flexibility that is inherent in the installation of permanent
- 11 crops where temporary crops are currently existing.
- 12 In Butte County we rely upon, the large majority of
- 13 the people and the economy and the environment in Butte County

- 14 rely on a healthy Aquifer system. We live on top of a tilted
- 15 Aquifer system. The regional area interfaces the creeks along
- 16 the foothills of the Sierra Cascade Range during much of the
- 17 year of this Aquifer system actually feeds the larger creeks
- 18 rather than, the creeks don't drain into as much as the Aquifer
- 19 drains into the creeks when the Aquifer is in a charged
- 20 condition.
- The creeks in Butte County support the last
- 22 populations of Wild Run Salmon in Butte County and Tehema
- 23 County. Both of these interface this Aquifer that is being
- 24 targeted by water marketers to be developed to meet state water
- 25 supply. And if this Aquifer is more aggressively drained there

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1 is concern that the creeks will become losing creeks, perhaps

- 2 even going underground as several of the small creeks in Butte
- 3 County have already done and thereby decreasing habitat
- 4 spawning and rearing habitat fish, the last native drawn fish
- 5 in the Sacramento Valley. Unfortunately, the native drawn fish
- 6 in San Joaquin Valley have already been impacted in the
- 7 spawning area because the continuity between the ground water
 - 8 and surface water has been disrupted.
 - 9 We are very concerned that this will occur.
- 10 Unfortunately, the draft environmental impact report fails to
- 11 analyze this. And we expect to see some detailed analysis of
- 12 the potential for this if the ground water in Butte County is
- developed as a ground water bank to meet the Monterey,
- 14 amendment demands that we expect during dry periods.
- The draft environmental impact report failed to
- 16 analyze and consider the impacts to the Aquifer in the
- 17 Sacramento Valley that are being targeted by the water

- 18 marketers as a so-called new source of water to meet demand
- 19 resulting from continued and expected exports enabled by the
- 20 Monterey Amendment.
- Independent peer review research will be necessary
- 22 prior to considering any transfers or conjunctive use of the
- 23 ground water in the Sacramento Valley. The ground water
- 24 section of the Monterey Amendment failed to analyze at all the
- 25 areas that, the source areas that are being considered as

- 1 sources of water to meet the demand that this project will
- 2 inevitably result in, and we expect to see analysis done in the
- 3 final EIR because so many contractors in the valley marketers
- 4 have identified the Tuscan Formation Aquifer which underlies
- 5 Butte County, Tehama County, Colusa County and Glenn County as

- 6 a key factor in meeting state water supply in the future and
 - 7 yet it's not even mentioned in the draft report.
- 8 Independent peer review research is necessary prior to
- 9 developing this. And this would include all the WHEY that is
- 10 W-H-E-Y acronym for a water model parameter such as water
- 11 inputs, water outputs, aquatic species, economic and
- 12 terrestrial links.
- We would like to know how impacts to areas of origin
- 14 will be monitored. Who will gather the data and report the
- 15 possible impacts to the economy and the environment of Butte
- 16 County. One of the grave concerns in Butte County as the
- 17 ground water is moving toward integrated into the state water
- 18 supply, because demands precipitated from this agreement would
- 19 be the dewatering of the root zones underneath our residual
- 20 hard wood growths, our native plants. We still have beautiful
- 21 growths of Valley Oaks and Sycamores that are valued Page 11

for the

- 22 humans that live in Butte County and Tehama County for their
- 23 beauty, for their recreational availability and of course,
- 24 these residual harbor strands are extremely important to the
- 25 habitat to the creatures that have lived here for a millennium.

- 1 We would like to know what the adaptive mitigation
- 2 measures would be available to those who live in Butte County
- 3 who rely on this ground water and to the environment that
- 4 relies on the ground water, if the ground water is tapped as it
- 5 was during the mid '90s as a drought water bank by the State of
- 6 California and it's likely to occur again should this agreement
- 7 go through and increase exports through the Delta are allowed
 - 8 to continue.

- 9 We would like to see some detailed analysis on both
- 10 how climate change impacts will be factored into adaptive
- 11 management and some analysis of the pallial climatological
- 12 record of the areas of origin. It's rare to see any mention of
- 13 the mega droughts that have occurred in the watersheds
- 14 feed the demand in California. These are droughts that have
- 15 occurred in the past 1200 years. There has been two droughts
- 16 that have occurred that lasted well over a hundred years and we
- 17 think that analysis of how the state will deal with these
- 18 droughts, how impact areas of origin will be mitigated need to
- 19 be part of the final environmental impact report. Thank you.
- MS. McDONNELL: Thank you very much.
- 21 MR. ANDERSON: Next speaker card we have is for
- 22 Michael B. Jackson.
- MR. JACKSON: My name is Michael B. Jackson, I am here
- 24 for two groups today. One is the California Sports, Page 13

Fish and

25 Protection Alliance, which is a nonprofit that works in water

□ 0009

- 1 quality and in fishers management and has been active in the
 - 2 Delta for the last 25 years.
- 3 The other group that I am representing today is the
- 4 California Water Impact Network, CWIN, which is a more recent
- 5 group 5013C, that has been organized to deal with the transfer
- 6 of water to north and south, from north to south through the
- 7 San Francisco Bay Delta, pretty much as a result of the last
- 8 Monterey Agreement.
- 9 Those of us who followed those amendments closely
- 10 realized that the changes in the contracts have been, are
- immense and both groups believe and I will now simply go
- 12 through the information that in at least ten areas and Page 14

more,

- 13 which we will try to bring to you at the other public hearings.
- 14 I am a member of the board of directors of both organizations.
- 15 I happen to live here in Quincy. Thank you very much for
- 16 coming, it saved me a long trip. I don't have to go to
- 17 Bakersfield, I don't have to go to Ventura, I don't have to go
- 18 to Sacramento. It's a real delight.
- The problems with the new Monterey plus EIR are in my
- 20 opinion greater than the original problems with the original
- 21 Monterey Agreement EIR. And they stem from some of the same
- 22 things that the court recognized when he sent this project back
- 23 to DWR after finding that DWR had failed in explaining to the
- 24 public and to the decision makers prior to the decision the
- 25 full ramifications of the contract amendments.

- 1 I am going to talk in terms of a couple of the
- 2 contract amendments. This is not to be exhaustive, there will
- 3 be more information about the other amendments presented in
- 4 writing and presented at the other hearings, but we believe
- 5 that it was important at this first meeting to try to get some
- 6 of these issues out on the table so that you will fully
- 7 understand it, and we also believe that we would have more
- 8 opportunities to talk here because it would be less people.
- 9 You will probably be pretty jammed up at the rest of the
- 10 meetings, and so I appreciate you bearing with me for the two
- 11 hours you have set aside for Plumas County.
- The first problem that we found when we took a look at
- 13 the draft EIR is that the proposed project description is too
- 14 narrow. It is ambiguous, it is changing depending on which of
- 15 the elements you are discussing. And in order to give Page 16

you a

- 16 little specifics in that regard I would say that there is an
- 17 overlying theme in your project description that is there but
- 18 not really disclosed to the public if you haven't spent the
- 19 last 25 years working on California water. And that is that
- 20 the change in Articles 18A and 18B, the change in Article 21 in
- 21 regard to surplus water, the change in Article 56, the illegal
- 22 sale of the Kern Fan or transfer of the Kern Fan by DWR to Kern
- 23 County Water Agency and through Kern County Water Agency the
- 24 next day to a private corporation managed by Stuart Resinic
- 25 (phon) from Paramount Farming has resulted in the violation of

□ **0011**

- 1 the water code, a violation of the original state water project
 - 2 bonds and is outside of DWR's authority to do.

- 3 It is our understanding at CWIN and CSPA that the
- 4 court ordered you folks to take a look at disclosing the real
- 5 impacts of the Monterey contract changes, and we don't define
- 6 you have done that. You have narrowly circumscribed what you
- 7 believe your project description is to include, it's just not
- 8 accurate. This is a much bigger project than is disclosed.
- 9 This is a much more important project than is disclosed. And
- 10 this project is part of a cumulative package Monterey, CalFed.
- 11 the Delta Accord, the Sacramento Valley Water Management Plan
- 12 known as Phase 8, and a number of other transfer programs that
- 13 have taken place that under the new, the operation of the new
- 14 contract provisions that would not have been allowed under the
- 15 old provisions. And we would suggest to you that you take a
- 16 look at your project description and try to actually point out
- 17 what was legal under the old contracts and what has been

- 18 enabled under the new contracts so that you yourselves have
- 19 some idea of how this links with all of the other things that
- 20 are going on in the Delta.
- 21 An important part of that then moves into the second
- 22 inadequacy in the document beyond the project description,
- 23 which is the environmental setting in the Delta. There is
- 24 reference in a number of the sections of the Monterey plus EIR
- 25 draft to the pelagic fish crash in the Delta. In between the

- 1 time that you did the original Monterey Agreement and today the
- 2 environmental setting in the Delta has completely changed. The
- 3 pelagic fish crash has numbers as low for the endangered Delta
- 4 smelt as has ever been seen in history. Judge Wanger in
 - 5 response to a lawsuit about the biological opinions Page 19

found very

- 6 clearly that there was too much water going out in the winter,
- 7 going into the ponds in the winter. And yet that is what
- 8 Monterey enabled. It would not have been possible for DWR to
- 9 destroy the pelagic fishery without Monterey and yet you can go
- 10 through this full document and not see any analysis of that.
- 11 It's as if Monterey's refusal to, as the court told you to
- 12 recognize that your water entitlements were nothing more than a
- 13 hope and a wish and a prayer didn't make any effect on the
- 14 people who wrote this document at all.
- There are certainly straw man alternatives that are
- 16 insufficient to carry out what the judge told you to do, and I
- 17 presume that will be addressed later but I am sort of pleading
- 18 with you to try to take the bull by the horns and actually put
- 19 it into the final environmental document and really do some
- 20 analysis of what role the Monterey contract amendments
 Page 20

play in

- 21 the destruction of the pelagic fishery in the Delta.
- For those of us who were around at that time and who
- 23 are still around, it is clear that the combination of Monterey
- 24 Amendment changes shifted pumping into the winter period in an
- 25 attempt to get Article 21 water, and that's exactly the period

□ **0013**

- 1 where the mothers of the Delta smelt were creamed. Now, when
- 2 fish who have children in the thousands, if not hundreds of
 - 3 thousands of kids in eggs, if you want to kill them,
- 4 particularly a species like the Delta smelt that is, lives only
- 5 a year, the way you kill them is to get the mothers before they
- 6 reproduce. And we believe that Monterey encouraged that, and
- 7 it encouraged it by changing Article 21 to allow surplus water
 - 8 to be picked up at no cost and not attach to table A. Page 21

So it

- 9 was basically a way to collect surplus water, turns out to the
- 10 damage of the estuary in December, January, February, March
- 11 while retaining in your reservoirs the ability to move your
- 12 stored water out of Oroville in the summer. And that change in
- 13 the operational system and the delivery system brought about by
- 14 Monterey is probably the smoking gun in regard to the pelagic
- 15 fish crash, and we would certainly appreciate you going back
- 16 and taking another look at that, because we don't find any
- 17 analysis of that whatsoever, the effect of the time shifts, the
- 18 effect of the availability of water, and the increases that
- 19 resulted on the Delta estuary from the years 1996 to last year.
- The third problem that we find with the EIR at this
- 21 point is that there really is, there are no real alternatives
- 22 here. I mean basically you are arguing with yourselves about

- 23 whether alternative number five is even feasible. So we have a
- 24 suggestion for a feasible alternative and that suggestion is
- 25 that you actually don't change the contracts, you exercise 18B,

□ **0014**

- 1 that you withdraw the amendment of Article 21, that you reclaim
- 2 the Kern Fan that was illegally transferred to Kern and that
- 3 you operate that Kern Fan if you are going to do conjunctive
- 4 use for the benefit of all of the people in California rather
 - 5 than for the benefit of Paramount Farms.
- 6 Your mitigation in the alternatives of the EWA and a
- 7 later biological opinion is illegal under the law. You cannot
- 8 defer mitigations, you cannot pass them off to something that
 - 9 will be taken care of later.
- 10 It's particularly important because of the problem

- 11 created by your treatment in Chapter Five of the base line.
- 12 This is the most confusing, and I would say misleading document
- 13 that has been my experience to read in California, and I read
- 14 the CalFed and I have read the OCAB document and this one is
- 15 without question the most confusing base line I have ever seen.
- 16 There seem to be three base lines. Those base lines are 1995
- 17 pre Monterey with an export of about 1.8 million acre feet as a
- 18 maximum possible, and then you would compare the Monterey
- 19 contract changes to that situation in a normal base line
- 20 program. However, because Monterey was rejected the first time
- 21 and because the litigation took some time and because there has
- 22 been an endless process of rewriting this document, we have now
- 23 reached the point where you now have a 2003 base line which
- 24 allows you to mask all of the increase in pumping allowed by
- 25 the Monterey Amendment contract changes from 1.8 million acre

- 1 feet to 3.2 acre feet, and it is reflected in Chapter Five in
 - 2 your own 2003 base line.
- Well, as you can imagine, if you compare what you are
- 4 doing today, what you are enabling today by reapproval of the
- 5 project, you are comparing it to a 3.2 million acre export out
- 6 of the Delta with the time shift that I talked about earlier
- 7 from summer to winter and the only impacts that are reflected
- 8 are those over and above 3.2 million acre feet. That's not
- 9 what the court told you to do. The court told you to take a
- 10 look at exercising the original contract provisions, 18A and
- 11 18B, and I see no analysis of what would have happened if you
- 12 had done that, that is not obscured by this second 2003 base
- 13 line discussion. It absolutely cannot be followed, I Page 25

don't

- 14 believe. So could you please rewrite that in a way that is
- 15 comprehensible to any decision maker or any member of the
- 16 public. I have been working on this problem for 25 years and
- 17 this document is almost impossible to follow in regard to the
- 18 base line.
- 19 Then there is a third base line and that is the base
- 20 line as if you didn't do anything in the Monterey Agreement but
- 21 you allowed demand to creep up to 2020, and then you satisfied
- 22 it. So, in other words, in a document in which the court told
- 23 you that your entitlement water supply was mostly hope and
- 24 wishes and dreams, paper water is the phrase they repeatedly
- 25 used. You have now set up a straw man alternative of a 2020

□ **0016**

- Quincy.txt base line in which 4.2 million acre feet of water gets used and
- said well, see how much better the Monterey is than what would
- have happened without it, which is simply misleading and
 - hopefully not intentional. 4
- The fifth problem is that you have used a scientific
- tool that is the best tool you could use for water routing, and
- that's CALSIM 2, but you have misused it in that you have used
- it for impact analysis. Now, there have been peer reviews of
- CALSIM, which we will put into the record in the final written
- information, but which are on websites that the DWR 10 has, peer
- reviews say you can't use CALSIM 2 for impact 11 analysis, because
- 12 it's an export operational model that is hard wired to treat
- every environmental impact the same, does it meet **13** state
- regulations, if so, all other water above that goes to 14 the
- 15 pumps, and that's true in every alternative.
- 16 So, in other words, your alternatives are set Page 27

up so

- 17 that they all result in as this document says, no impact and it
- 18 is done by manipulating the concept of CALSIM in areas in which
- 19 the peer review of CalFed and CALSIM's own model say is not an
- 20 appropriate use of the tool.
- The problem with that is that if you treat in your
- 22 modeling everything as satisfied by meeting state law, the
- 23 environment can never get better, so you have created a floor
- 24 conformance with the regulations that is the same no matter how
- 25 you run CalFed on any alternative. And so you have also

- 1 created a floor that is a ceiling and the Delta ecosystem is
- 2 trying to live between a floor and a ceiling that are exactly
 - 3 the same number.
 - The next problem is that CALSIM 2 also is a Page 28

model that

- 5 is hard wired to determine that there is never a shortage of
- 6 water. What CALSIM 2 does and it really is apparent in this
- 7 document, is that it comes to the conclusion that there is an
- 8 infinite amount of source water in the Sacramento Valley, and
- 9 listening to the Butte Environmental Council they are right on
- 10 about that, when your modeling document relies in order to meet
- 11 export of 4.2 million or 3.2 or 1.8 or wherever the base line
- 12 is, as long as you can take ground water, your computer thinks
- 13 it can, it masks every damage to the source area and in this
- 14 particular circumstance results in what has happened with the
- 15 running of the Monterey Agreement.
- In the 19, before it went into effect the average
- 17 export from the Delta was 1.86 million acre feet and it's
- 18 displayed as such in your document. By 2003 exports under the
- 19 new Monterey contract were 3.2 million acre feet. And Page 29

by last

- 20 year as you well know the exports were the highest in history
- 21 3.7 million acre feet and the estuaries, environmental health
- 22 was at the lowest ever seen and those two things are connected
- 23 but they are not revealed as connected in this document.
- Now, the way they do that --
- 25 MR. ANDERSON: Mr. Jackson, if I could just quickly

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- 1 interject, we do have other speakers and in the spirit of
- 2 providing everyone approximately equal time, maybe we could go
- 3 to the next speaker and then if there is time at the end we
 - 4 could return to yours.
- 5 MR. JACKSON: I think that makes a lot of sense.
 - 6 MS. MCDONNELL: Thank you.
- 7 MR. JACKSON: I was going to go last just to sop up

Page 30

- 8 the time.
- 9 MR. ANDERSON: I was trying to divvy up the time.
- 10 MR. JACKSON: That will be just fine.
- MR. ANDERSON: Next speaker card here is Barbara
- 12 Hennigan.
- 13 MS. HENNIGAN: I also appreciate you making this trip
- 14 up here, I hope you had a good drive. My name is Barbara
- 15 Hennigan, I'm the executive director of the Butte/Sutter basin
- 16 area ground water users, which is an organization formed
- 17 primarily to protect the Lower Tuscan Aquifer. We have
- 18 approximately a hundred families as members both agricultural
- 19 and domestic well owners, approximately 20,000 acres of
- 20 orchards represented and what we consider that our constituency
- 21 are the 99 percent of the people living over the Lower Tuscan
- 22 Aquifer who are not members of water districts. And that
- 23 becomes important when as stated here the reliance on Page 31

- 24 environmental water account as a mitigation measure, because of
- 25 the way that plays out in the Sacramento, in the lower Tuscan

- 1 region. People, landowners in water districts with surface
- 2 rights sell their surface water to the environmental water
- 3 account and pump ground water instead, which of course, they
 - 4 have historically never done.
- 5 In the Lower Tuscan Aquifer 37 percent of it is over
- 6 lain by Butte County, 31 percent of it is over lain by Tehama
- 7 County, and those two counties also provide what we now believe
- 8 is the recharge zone for the lower Tuscan. According to the
- 9 last ten years of the farm crop reports more than 50 percent of
- 10 Butte County's agricultural income comes from orchards and
- 11 almost 70 percent of Tehama County's agricultural Page 32

income is

- 12 from orchards. And orchards are on ground water for a variety
- 13 of reasons.
- 14 My husband's family started farming in Butte County
- 15 raising almonds in 1918 and so we have a long family historical
- 16 memory of both water use, cultivation practices and stream
- 17 flows.
- The early orchards, the trees were planted very far
- 19 apart so they could capture rain water over a large area to
- 20 keep the trees alive. With irrigation the orchards are now
- 21 planted in close rows and the reason that irrigation water is
- 22 important, that ground water is important is for the water
- 23 quality because most of the orchards are now on solid set
- 24 sprinklers. Almonds were brought to Butte County by John
- 25 Bidwell, he looked at similar climate areas and brought in

- 1 trees and plants that he thought would grow there. And so the
- 2 sprinkler system allows the farmer to very carefully meter
- 3 water to a plant that, a tree that cannot stand to have wet
 - 4 roots.
- 5 The other purpose for having ground water and pumping
- 6 and sprinkler systems is for frost control. So very little
- 7 flood irrigation goes on and a lot of our orchards are doing,
- 8 are on integrated pest management systems to protect the
 - 9 environment and the water quality.
- The reliance on the State Environmental Water Account
- 11 as a mitigation endangers all of those orchards, all of that
- 12 family, those are mostly family farms. We have very little
- 13 corporate farming in Sacramento Valley. I would also point out
- 14 that in the crop per drop theory the almond orchards in the

- 15 Sacramento Valley are more productive. They use less water to
- 16 produce crops than do orchards that are now being planted in
- 17 the San Joaquin where they have only three inches of rain.
- 18 They must apply up to seven acre feet of water per acre. In
- 19 the Sacramento Valley where we have 26 inches of rain, we only
- 20 need to apply two and a half to three acre feet of irrigation
- 21 water to bring in the crop.
- We are very concerned that changes of the Monterey
- 23 Amendment to the state water, contractors will end up with a
- 24 much heavier use of the Lower Tuscan Aquifer. North of the
- 25 Sutter buttes we look at the area around Davis where the ground

- 1 water has been pulled down to the point where it is no longer
 - 2 feasible for Davis and Woodland to use ground water Page 35

for their

- 3 municipal supplies. They are now moving to Sacramento River
- 4 water because of the water quality. We know that underlining
- 5 that aquifer is you know, miles of brine from the ancient seas
- 6 that once filled the Sacramento Valley. So the understanding
- 7 of how thick that lens of fresh water is, is of deep concern to
 - 8 us.
- 9 Last year at this time we were visiting an area in
- 10 Northern Oregon-Southern Washington where the local people had
- 11 just learned that every year they had been pumping out
- 12 10,000 years of recharge. One generation got to put in big
- 13 center pivot irrigation systems and sell a lot of wheat, but it
- 14 is over. Half a million years it will be as good as new but we
- 15 do not know what the recharge of the lower Tuscan is. Because
- 16 I have a historical memory, we do know that it is being pulled
- 17 down. Rock Creek once ran year round through my husband's

- 18 family's ranch, there was an Indian village on it that Chico
- 19 State anthropologists said was continuously inhabited for
- 20 3,000 years. It was surrounded by piles of fresh water muscle
- 21 shells and the piles that were deep enough that certain areas
- of the orchard had to be treated differently because of the
- 23 residual from the shells.
- The family talks about pitch forking salmon out for
- 25 canning but almost no one is alive who can remember when Rock

- 1 Creek ran year round. It has become a seasonal stream and it
- 2 would be, we see that the same possibility for big Chico Creek,
- 3 for Butte Creek and these are the creeks that cross the
- 4 recharge zone, this is the source of recharge for the Lower
 - 5 Tuscan Aquifer.

- 6 So for the issues of protecting the water quality,
- 7 protecting the stream flow in the Sacramento, one of the things
- 8 that we have learned is that the Sacramento River becomes a
- 9 permanently losing stream at the Sutter buttes. When I first
- 10 started looking at the water issues that point was at Grimes
- 11 south of the buttes, now it is at Princeton, moving north of
- 12 the buttes. As the Sacramento becomes a losing stream farther
- 13 and farther north because of loss of the Lower Tuscan Aquifer,
- 14 that means that it, there will be less water that the rest of
- 15 the State relies on.
- One of the things that we are very aware of up here is
- 17 the fact that the State relies on not merely the water quantity
- 18 from the Sacramento and Feather Rivers, but also the water
- 19 quality, and the most important thing you can be doing is
- 20 protecting that water quality and this document needs to

- 21 address protection of the water quality, protection of the
- 22 connectiveness of the aquifers that are still viable and still
- 23 connected to the environment that filters the water that goes
- 24 into the rivers. It's a whole area that needs to be addressed,
- 25 and when I go to the state water meetings I find a lot of

- 1 people in the southern part of the state who complain that
- 2 their constituents don't know where their water comes from. and
- 3 I am sitting around with a lot of people who know where the
- 4 water comes from but don't know anything about the region that
 - 5 actually produces the water.
- 6 I think a more useful approach to dealing with the
- 7 water issues would be to identify areas that are net producers
 - 8 of water and net consumers of water, and while to the Page 39

rest of

- 9 the state it appears that the Sacramento Hydrologic Region is a
- 10 net producer of water, we know that from the Sutter buttes
- 11 south it is a net consumer of water.
- So ironically at a time when the State is going to be
- 13 needing more water, the area that physically produces that
- 14 water is going to be getting smaller and that needs to be
- 15 addressed in this document.
- 16 So I am very concerned that this is a chance to have a
- 17 really good analysis of the effect of all of these water
- 18 transfer plans and that need to be done with a view towards
- 19 what is, what is the best long term for the state, and of
- 20 course, up here we believe the best thing that could happen is
- 21 that you turn the north state into a giant sponge that funding
- 22 for flood meadows at one of the last water plan meetings,
- 23 someone said that we need to start thinking about saving water

- 24 higher and higher in the water sheds, and I see this as a
- 25 process of merely, you know, milking the cow and we hope that

□ 0024

- 1 you don't kill the cow. And thank you for your time.
- MS. McDONNELL: Thank you.
- 3 MS. HENNIGAN: And we will be submitting written
 - 4 comments.
- 5 MR. ANDERSON: Thank you. The next speaker card in
 - 6 front of me is Allison Dvorak.
- 7 MS. DVORAK: Hello, I'm Allison Dvorak State Water
- 8 Contractors. We are an association of 27 of the 29 entities
- 9 that contract with the State for statewide project water
- 10 supply. Thank you for the opportunity to comment here. My
- 11 comments will be very brief, but I basically just want to cover
- 12 what the Monterey Amendment is and what it does, just Page 41

- 13 background kind of what you gave in your presentation the
- 14 amendment developed after it became apparent that the State
- 15 Water Project was not going to be able to deliver supply as was
- 16 originally envisioned in the 1960s when the contracts were
- 17 developed. Restrictions due to then unforeseen environmental
- 18 conditions and concerns and regulations, as well as hydrology
- 19 led to severe statewide project water supply cut backs in the
- 20 early 1990s and that resulted in disputes between agricultural
- 21 and urban contractors about how the limited supplies should be
- 22 allocated.
- The Monterey Amendment addresses these disputes about
- 24 the water allocations, additionally allows flexible management
- 25 of the limited state water project supply and it provides

- 1 funding for the local projects in the contractor surface areas,
- 2 and since the amendment is really about updating the contracts
- 3 to flexibly manage the supply and reflect the current liberal
- 4 conditions the environment impact as shown in the environmental
- 5 impact report are less than significant in almost all resource
- 6 categories. Additionally, the Monterey Amendment provides the
- 7 flexibility that has allowed the State Water Project to weather
- 8 the recent drought in the past year without the hardships that
 - 9 have been previously seen in the 1990s.
- And that's the extent of my comments. We will be
- 11 submitting formal written comments by the deadline. Thank you.
- MR. ANDERSON: Thank you. I don't have anymore
- 13 speaker cards in front of me. Are there others in attendance
- 14 that would like to comment? There is not, I guess we can
- 15 return to Mr. Jackson.

- 16 MR. JACKSON: Thank you. I appreciate you letting me
- 17 come back because I had just gotten to Chapter Six. The
- 18 Monterey Amendment of the original contracts of the State Water
- 19 Project ought to be reassessed completely by DWR contractors.
- 20 It is clear from looking at Chapter Six, page 621 you have a
- 21 wonderful table that demonstrates the difference between the
- 22 old contracts and the new contracts. And the year I would like
- 23 to highlight is 2001, which is the year in which the withdrawal
- 24 of the original contract provision 18A is likely, was in that
- 25 year the urban water users lost 412,000 acre feet of water that

□ **0026**

- 1 they would have gotten under the old contracts.
- 2 MS. MCDONNELL: Would you reference that table again,
 - 3 please?

- 4 MR. JACKSON: Sure, it's on page 621, and on page 622
- 5 there is the corresponding table which is that in the year 2001
- 6 ag got an increased delivery of in that year of 412,000 acre
- 7 feet. And so basically over the ten-year period that is
 - 8 reflected in the tables ag's take out of the Delta was
- 9 400,000 acre feet more than it would have been under the old
- 10 contracts.
- Now, I would like to see an analysis based upon that
- 12 table that compares last year and this year and what you can
- 13 expect out of the Wanger decision. I mean which is a
- 14 regulatory drought, as I hear it explained by all of the people
- 15 in the urban areas. But the idea that, the description of your
- 16 project is that you want to reconcile the disagreements between
- 17 ag and urban may be a very good one, but the reconciliation is
- 18 completely different now than it was in 1995 and it is just not
- 19 reflected in the document.

- I would expect that if you do address the substantial
- 21 change, I mean 412,000 acre feet is getting fairly close to
- 22 what the metropolitan lost on the Colorado with the QSA in
- 23 terms of their surplus water. This is a huge section of their
- 24 water.
- Now, we would expect that they are going to try to

□ **0027**

- 1 defend that situation by saying well, yeah, but we got more
- 2 water in the winter and therefore it was a good contract
- 3 change. And I would like to see that examination in the
 - 4 document.
- 5 To take a real look at whether or not under today's
- 6 existing circumstances with the pelagic fish crash, global
- 7 warming and almost no water in Lake Oroville. If you do go

- 8 down 70, take a look, that's the lowest I have seen it with one
- 9 exception and that was at the end of 1977. Shasta, because of
- 10 the change in the joint point of diversion which needs to be
- 11 dealt with if you are using the state pumps and in the Monterey
- 12 Amendment to move now federal water, Shasta is below what was
- 13 considered for years and years the absolute bottom that you
- 14 could go to and still keep salmon alive on the Sacramento
- 15 River, which was 1.9 million acre feet. And if I read the DWR
- 16 reports, I didn't read them this morning, I read them two days
- 17 ago and it was 1.8 million and all of that was water moved
- 18 under the new Monterey purposes.
- 19 Now, it ought to be disclosed in here what you mean
- 20 when you say "conjunctive use," because there is no water in
- 21 Southern California that is new to put into the ground. There
- 22 is no water in the San Joaquin that is new to put into the

- 23 ground. If you are going to run those conjunctive use projects
- 24 as reflected by the current land owner you will have to have a
- 25 source of water and it is undisclosed in this document. There

□ **0028**

- 1 is absolutely no way to understand where that water comes from
- 2 particularly given the fact that the courts are ordering DWR to
 - 3 slow down.
- 4 Now, we believe that if you examine carefully the
 - 5 changes in the contracts that you will find that the
- 6 conjunctive use programs, part of the Tim Quinn's (phon) tool
- 7 kit, the aqua executive director, are reliant on a new source
- 8 of water. I mean you have got to fill those ground water holes
- 9 somewhere or they are reliant on increased pumping from the
- 10 state water in the Delta, which is the only one that has

- 11 capacity.
- 12 So I don't find any discussion of any of the negative
- 13 side of the conjunctive use programs that were enabled by the
- 14 changes in the contracts.
- Now, since I am here for Fisheries Group I probably
- 16 ought to talk about the fish. In Chapter Seven, 7.3 fish, when
- 17 you get to the bottom of it you find that DWR rightfully finds
- 18 that the Monterey Amendment changes could have a significant
- 19 impact on the pelagic fish. Well, since you did the Monterey
- 20 Agreement changes for the last seven or eight years I quess we
- 21 could change that and say did cause the damage to the pelagic
- 22 fish. I think you ought to be straightforward about that.
- 23 Your operation in the change in Monterey caused some part of
- 24 the collapse and I think you ought to look at that because it's
- 25 not there.

- 1 And the mitigation that takes it to less than
- 2 significant was very well pointed out by a speaker before me.
- 3 it's the EWA. Well, the EWA as you pointed out is going to be
- 4 gone in a year. It didn't work. It has never been adequately
- 5 funded. It is considered by the environmental community to be
- 6 a joke and there is no discussion of the scientific dispute
- 7 over the EWA, it is just assumed to take the damage that the
- 8 pelagic fishery that we all know is there from great damage to
- 9 no impact, and the EWA simply can't do that. I mean we are
- 10 talking about millions, well at least one million extra water
- 11 enabled by Monterey and a EWA is a mitigation that has never
- 12 been more useful than three hundred thousand and usually
- 13 doesn't have that much water.
- The cumulative impacts of this project are Page 50

not

- 15 adequately explained to the public. And I don't think because
- 16 they are not in the draft environmental document I don't think
- 17 there is any way Lester Snow is going to know about it until he
- 18 makes a decision to go forward. I think a decision maker like
- 19 Mr. Snow deserves the best information he can get and here in
- 20 terms of cumulative impacts, the analysis leaves out a number
- 21 of the cumulative impacts. The Napa program, South Delta
- 22 Improvement Program, the biological opinions being found
- 23 inadequate, the violation of the water quality laws by DWR and
- 24 the bureau and the Delta that have resulted in the State Board
- 25 issuing cease and desist orders, all of those overlying

0030

1 effects. The relationships between Monterey, the Delta Accord

- 2 and CalFed which have resulted in the damage in the Delta are
 - 3 not displayed as one full package of impacts.
- 4 In terms of the alternatives, yes, the court did order
- 5 an analysis of what would happen if you just stayed with the
- 6 same contracts and actually followed the law, which would be
- 7 this year the net would be getting 400,000 acre feet more than
- 8 it was getting last year, because of the protection of the 18A.
- 9 And 18B would satisfy what DWR has been ordered to do by two
- 10 courts in my personal experience. You may have been ordered to
- 11 do it by other courts in cases that I wasn't in, but you were
- 12 ordered to take a look at exercising 18B by the Third District
- 13 Court of Appeals in PCL versus DWR, but in RCRC versus DWR, or
- 14 the CalFed problematic documents, the Third District Court of
- 15 Appeal again pointed out that DWR had failed in the CalFed
- 16 problematic document because they did not analyze an

- 17 alternative that reduced exports and found alternative water
- 18 sources to make up for the impacts to the contractors.
- 19 those are everywhere, you don't have to go to the Delta. Those
- 20 can be found in Bulletin 160, the Governor's own water plan,
- 21 DWR's own water plan, 160.05, 3.1 million acre feet of water
- 22 that can be easily found in the demand areas that can reduce
- 23 demand quicker than we can build supply without killing the
- 24 Delta, and I don't see any of that displayed as an alternative
- 25 anywhere.

- 1 And it is kind of funny that you have been ordered
- 2 twice by the Third District Court of Appeals, who is going to
- 3 hear this case and who I am trying to make a record for, here
- 4 you go again. You have not looked at an alternative to reduce

- 5 exports.
- 6 Okay, the last one that I would like to deal with is
- 7 that you have taken a look at Plumas County in terms of
- 8 regions, thank you very much, and found that with wonderful
- 9 water shed programs that we are all trying to work on here any
- 10 impacts here from a result of the settlement agreement or
- 11 anything else are less than significant, and I would argue that
- 12 they are beneficial, and I agree with you every bit on that,
- 13 and I believe that you should reflect that in your document as
- 14 you rewrite it with what would, what will happen when global
- 15 warming, because those of us who live here see the snow pack
- 16 going away. I mean by 2050, your own documents, which are the
- 17 most conservative, I guess I would say radical way of looking
- 18 at it, but the least damage to the water supply by 2050 is
- 19 25 percent of the existing water supply.

- 20 If DWR looked at an alternative that would actually
- 21 restore these meadows up here and became people who were
- 22 actually trying to take care of sustaining the State Water
- 23 Project, that snow pack or a lot of it as it declines can be
- 24 put into ground water here without any impact that is negative
- 25 to anybody, and then it trickles out to you and sustains your

- 1 water supply. But we can't afford to do this. So any reliance
- 2 on Plumas County to try to catch the snow pack so that it
- 3 doesn't enter Lake Oroville and have to be flushed in March
 - 4 because you are worried about another storm coming in. We can
- 5 hold it underground up here and not lose it as evaporation. We
 - 6 can mitigate, which is what we are trying to do here.
- 7 The declining snow pack in the face of global warming,

- 8 and I would like to see you actually take a look at that while
 - 9 you are doing the rest of these.
- I want to thank the three of you, I mean I know I have
- 11 tried your patience here and I have talked an awful lot, but
- 12 Monterey is in many ways the last chance for the pelagic fish.
- 13 If your decision maker accepts the Monterey contract changes
- 14 what basically happens is the rest of California gets
- 15 sacrificed in a way that is unnecessary. All of the money that
- 16 is going to be put into attempts to get more water, and there
- 17 isn't any in Northern California, is going to result in
- 18 stranded assets.
- 19 The original Monterey contracts were brilliant and
- 20 they are much better than the new amendment, and I don't see
- 21 any side by side analysis of the old contract provisions given
- 22 today's circumstance with the new contract, provisions given
- 23 today's circumstance, and I think that the document Page 56

must show

- 24 that no matter how narrow you describe your purpose and need,
- 25 to use one term, or your project description to use another

- 1 one, and how much you mask the base line and how much you use
- 2 CALSIM for impact analysis when the peer review folks have told
- 3 you it's not for that and doesn't work for that. So thank you
 - 4 very much.
- 5 MR. ANDERSON: If anyone else would like additional
- 6 time to speak or to provide additional comments would you come
 - 7 to the podium and state your name, please?
- 8 MR. DUBER: Yes, my name is Stevee Duber, D-U-B-E-R.
- 9 I live at High Sierra Rural Alliance. I am just coming up to
- 10 speed on this, but I would just like to add a few comments to
- 11 what Mr. Jackson said and encourage you to look at the Page 57

impacts

- 12 to Sierra County as well as the lower water shed in Plumas
- 13 County, because this will also have impacts on that part of the
- 14 Feather River Basin that is in Sierra County and the
- 15 possibilities of enhancing water storage as Mr. Jackson spoke.
- 16 Thank you.
- 17 MR. ANDERSON: Okay, if there are no additional
- 18 comments at this time then we would like to formally close the
- 19 public hearing and again, thank you all for coming and
- 20 participating today.

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5 STATI	I, AMY JO TREVINO, CERTIFIED COURT REPORTER OF THE E OF
6 CERT:	CALIFORNIA, IN AND FOR THE COUNTY OF PLUMAS, HEREBY IFY:
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8 SET I	THAT I WAS PRESENT AT THE TIMES AND PLACES HEREIN FORTH
9 HAD;	AND THAT I REPORTED IN SHORTHAND NOTES THE PROCEEDINGS
10 INTO	THAT I THEREAFTER TRANSCRIBED MY SAID SHORTHAND NOTES
11	TYPING, THE FOREGOING BEING A FULL, TRUE AND CORRECT
12	TRANSCRIPTION THEREOF, AND A FULL, TRUE AND CORRECT
13	TRANSCRIPTION OF THE PROCEEDINGS HAD.
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18	AMY JO TREVINO, CA #5296
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